

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7784 OF 2004

1. Ashok Dhansukhlal Solanki,
and ors. .. Petitioners

Vs

1. The Mogaveera Co-operative
Bank Ltd and ors. .. Respondents

Mr R.l.Majgaonkar, for the petitioners.

Mr C.S.Karkera, for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATE : 21th September, 2004.

PC:

1. This petition is directed against the attachment notice dated 22.6.2004 passed by respondent no.2.

2. I heard the learned counsel for the parties for some time.

3. The petitioners have filed the Undertaking on record. A copy of the Undertaking is served on the other side. It is taken on record and marked "X" for identification. Mr.Karkera, learned counsel for the respondent-Bank, states that the Bank shall not auction the flat in pursuance of the impugned notice dated 22.6.2004 for a period of six months from today provided the petitioners deposit fifty percent of the total

amount of the recoverable dues within eight weeks as stated in paragraph 1 of the Undertaking. Keeping in view the Undertaking and the submissions of the learned counsel for the parties, the writ petition stands disposed of by following order :

(i) The Undertaking of the petitioners and the statement of the learned counsel for the respondent-Bank is accepted.

(ii) If the petitioners fail to deposit the amount, as stated in paragraph no.1 of the Undertaking, it is open for the respondent-Bank to proceed to auction the flat.

(iii) It is also open for the respondent-Bank to proceed against the petitioners if they fail to deposit the balance amount within four months as stated in paragraph 3 of the Undertaking.

(iv) Attachment shall remain in operation till the total amount of recoverable dues is paid by the petitioners to the respondent-Bank. However, the petitioners are allowed to remain in possession of the flat subject to the conditions aforestated.

(v) The petition is, accordingly, disposed of.

(D.B.BHOSALE, J.)